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THE RESPONSIBILITY OF PARENTHOOD

BY HON. ROBERT J. WILKIN,
Justice of the Children's Court, Brooklyn, N. Y.

It is interesting to us all who have given any consideration to the present provisions of law, relative to the care of neglected, destitute or delinquent children to notice the really recent recognition by the public of the necessity for the special study of this subject. Some one has said that if the present age was to be recognized in some special way, it perhaps would best be known as the "Children's Age," for such an awakening to the necessities for their special care and protection has not been before seen in this world, so far as we know.

To be sure, the law had considered the disposition of the property of infants and made special effort to safeguard and protect this. It had provided also with a great deal of precision for the care, education and happiness of those children who were endowed with property and was jealous to look after their rights. The law had been particular to regulate the relationship between parents themselves and their children; in fact, it seemed that the law considered every phase of the question of the interest of a child, so long as he or she might be entitled either by relationship or property rights to a financial or social standing. If, however, none of these particularly interesting and desirable qualifications being in existence, the child should be found destitute either on the highways or elsewhere, should it be in the custody of a drunken or otherwise brutal parent or guardian, should it be under any other disability, the law seemed to feel that it was none of its business, nor was it called upon to concern itself in the regulation of such cases as might occur. This was not so much due I think to the fact that the peoples of the world were less considerate of the unfortunate child and its sufferings, as it was to the fact that the legal system of government in most countries was based on the plan of the family, and, therefore, the laws all pointed to recognize, uphold and regulate this particular phase. Even in this country, which sought almost from its beginning to be developed along the line of the special protection and

benefit of those who were apt to suffer from injustice, the subject was not developed into a satisfactory law until quite recently.

The State of Massachusetts, I believe, was the first one to recognize this new condition, and in 1736 a statute was passed providing that "when persons were unable or neglected to provide the necessities for the sustenance and support of their children, such children might be placed in charge of the overseers of the poor and bound out." It also provided for the giving of the children "a decent Christian education." Later, and up to about 1825, other states passed statutes providing for the binding out of such children, and also their commitment to poorhouses when they were found begging in the streets or whose parents were beggars.

The first statute in the State of New York provided for the establishment of the Society for the Reformation of Juvenile Delinquents, in 1824, and this society had a building where the old Fifth Avenue Hotel stood on Twenty-third Street and Fifth Avenue, in New York City, which was known as the "House of Refuge." Certain powers were given the justices in the city to commit children to this institution. From 1824 legislation in relation to children was not generally increased, and no particular idea seemed to be considered even in the legislation that was enacted in any of the states, except to care for the destitute or whose parents might be delinquent.

The origin of special ideas and the date where first applied have always been an interesting subject for study, and some writers have held that what appeared to be the beginning of a thought was simply the evidence of increasing interest in many sections which had only found its development and announcement in this particular place. Such, in all probability, was the condition in relation to the special study of children and child legislation.

After the termination of the War of the Rebellion the United States took on a new activity along lines that had not been developed or considered prior to that time. The great excitement regarding human slavery which culminated in that great war was subsiding and the mental activities of the people were allowed to consider other phases of domestic relationship.

The organization of the great Society for the Prevention of Cruelty to Animals by Henry Bergh, in the late sixties, suggested to the people of this country, and, in fact, to the world at large, the

thought that the rights of the individual human being was not the only subject that should be considered by the citizens of this free Commonwealth. I have no doubt at all, as the origin of the sister Society for the Prevention of Cruelty to Children indicates, that the idea of the protection of animals, which was spreading itself throughout the states of the Union, also attracted to the attention of people the heartless cruelties that were enacted against children. You will remember the story of the little child in a tenement of New York City, whose sufferings were discovered by the volunteer charity worker, and who was rescued and her tormentor punished through the agency of Mr. Bergh's society. You will remember also that when this case was published in the papers it attracted wide attention, and also tended to discover many other cases of a similar character. The Society for the Prevention of Cruelty to Animals became overloaded with these complaints for investigation, and finally Mr. Bergh, together with the Hon. Elbridge T. Gerry, the counsel for the society, and a life-long friend of Mr. Bergh's, organized at a public meeting the now well-known New York Society for the Prevention of Cruelty to Children. This was in 1874. The Legislature was applied to in 1875 to enact the first statute for the protection of children from cruelty. Since that time legislatures of the country have been studying carefully, and with great steps of advancement, the subject of the protection and care of children.

It is interesting to note also, as stated by President G. Stanley Hall, of Clarke University, in a recent article, that the movement "for the scientific study of children began barely thirty years ago with a comprehensive census in Berlin of the contents of children's minds upon entering the public schools of that city." On the one side of the Atlantic the organization of a great movement to protect from physical cruelty the children of the land, and on the other side the beginning of a great movement scientifically to study the welfare of children.

Since 1875, then, legislation in the several states, and, in fact, in the world, has been secured to protect and benefit children. The idea also of recognizing in the state its right to look upon the child with the parental idea has been the foundation thought and authority for this legislation. The state has assumed in the first place the protection of the child from physical abuse on the streets and in public, as is evidenced by the legislation against assaults; the use

of children in dangerous performances; as street beggars, or in mendicant occupations, and the various other statutes where children were publicly improperly used or abused. It protected them from ill-use in the various occupations, it protected their health as suggested by the health laws, and it protected their morals by making provisions more severe in relation to the public exposure of children, increasing the age of consent from the common law period of ten years to sixteen or eighteen years.

That the law should do this was eminently proper, because if the child grew to manhood or womanhood with weakened mind or body or in a diseased condition, the state would first be deprived of the benefit and protection of its active participation as warrior or mother and would be compelled for its own protection to support it if diseased and incapacitated. The principle of self-preservation compelled the state to assume the attitude of *pater patriæ*, and the legislation naturally followed.

The laws for the protection of children even down to the present day, including the beneficent legislation establishing children's or juvenile courts, have been based on this fundamental idea, and have in their workings rendered excellent service. Natural selection, however, or perhaps we might say the laws of nature, provide a somewhat different aspect with which to view the parent on one side and his child on the other. The state, for its protection, should prohibit the ill-use or neglect of the child which is some day to become the citizen, but in doing so the fundamental idea of the family should not be forgotten. With few exceptions the legislation has been along the line of caring for the child in one way or another, relieving the parent from the responsibility of his duty, and placing upon the shoulders of the public, in other words, the state, the expense and the care of the child. The public school system, that most excellent institution of the people of this country, which we are all proud to point to as peculiarly a development of our system of government, in reality places upon the shoulders of the state the responsibility of the education of the child. While it is true that the parent by the laws must pay a few dollars in taxes and is supposed to oversee and assist the child in its home studies, at the same time in reality he is brought up to the idea that the state will educate the child, that the institution was established with that idea, and the parental responsibility is just so far reduced.

The stepping in by the state with the strong arm of the law to pluck the ill-used or neglected child from the home of the drunkard and place that child under the care of some public department or some quasi-public institution, is another movement by the state as the parent of the citizen child to relieve the natural parent of his parental responsibility. To be sure, the laws provide for the punishment of the neglectful parent; to be sure, the law, while it does not say so, probably contemplates the reform of the drunkard and the criminal, and the ultimate return of the child to the reunited family, but what does the law do directly toward this end?

I am not unmindful of the fact that the laws to-day are considering the reformation and the rebuilding of the person, rather than the old idea of retaliatory justice, and I am also not unmindful of the excellent effort that has been made in some of the states, notably Ohio, with its truant fathers' legislation, to which so much was added by the efforts of the late Hon. James M. Brown, of Toledo, nor of the United States statutes in force in the District of Columbia, which are producing so interesting and beneficial a condition under the wise administration of the Hon. William H. DeLacy, justice of the Juvenile Court, to whom, to my mind, more than any one else, is due the credit of bringing about a practical exhibition of the idea of fixing parental responsibility.

The law in the District of Columbia, as you probably all know, provides that the parent shall contribute to the support of his child, and his failure to do so renders him liable to commitment to the prison where under a fiction of the law he earns a certain sum per diem, which sum is paid over to the wife or the caretaker of the child, who in a way is repaid for the care of the child. This law, I understand, was originated by the late William H. Baldwin, of Washington, and deserves the serious consideration of all those who are interested in the child problem. I am informed that during the past year some \$38,000 was collected from fathers for the care of their children; of course, most of this money was collected from such parents as were free and could find work to do, but the ability of the state to apply a measure to enforce this payment probably in its entirety made the possibility of receiving this money a realization.

Adult contributory delinquency legislation is being considered by many of the legislatures of our states. It seems to me that the

state has gone nearly as far as it should in direct legislation toward bettering the condition of and protecting from ill-treatment the child. The attitude of *pater patriæ* should be relinquished somewhat and *pater naturæ* should be developed.

In the State of New York, some years ago, under a strong opposition, we had a bill passed which provided that the father of a child who was being supported at the expense of the public authorities, might be summoned before a magistrate to inquire into his ability to contribute in whole or in part toward the support of the child. As I said before, this measure met with opposition, and with strong opposition, but the bill became a law. While it is recognized and practiced in a few of the larger cities, it is practically, a dead letter so far as the general state is concerned.

The responsibility of the mother, who has a regular financial income, with children in institutions at public expense; the responsibility of the step-parent, who has assumed the marital relationship with the parent of children similarly placed, has not as yet been considered, but it is the thought of the speaker that this phase of the relationship should receive the serious study and consideration of the thinking people of our country.

I am well aware that the tendency of the times is to forget the individual and study in concrete masses. I am well aware that it is much easier to commit to an institution out of hand the ill-cared for or neglected child, and pay the small per capita per annum, than it is by probation or dealing individually with the child's parents to retain in that parent the sense of his parental responsibility and perhaps return to the child a reawakened parental love. Are we prepared to recognize the state as the parent of all children to the exclusion of the natural guardians, or is it best for us, while it will in the first instance require much more care and effort, to retain a close relationship to the natural parents and thereby secure the natural child as the basis for the citizen?

It seems hardly necessary for the writer, who has for so many years been in touch with the charitable institutions of the great State of New York, to protest that he in no way would even suggest a criticism of the most excellent work done by these institutions which have these many years received in such large number the unfortunate children of thoughtless, if not criminal, parents, for such is not his intention. He bows his head with respect and admiration

to the services that have been rendered in the Christian spirit by the devoted sisters, the volunteer and paid caretakers, and all who have done so much to benefit the little ones in their care.

The idea set forth in this paper, however, instead of criticising these loyal and unselfish workers, is rather to further assist their work by having the natural parents educated to the responsibility of their relationship. Should we not, in our future studies, endeavor to find a solution to the problem of how to reawaken in the erring parent's mind and heart the natural feeling of love and responsibility?